

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. William H. Walls
v. : Crim. No. 08-724
ABNER CARLOS : ORDER

This matter having come before the Court on the motion of Abner Carlos (Candace Hom and Peter Carter, Assistant Federal Public Defenders, appearing) for an order granting defendant's pretrial motions to: (1) dismiss the Superseding Indictment because of "outrageous government conduct;" (2) suppress the evidence seized from his person and home; (3) dismiss the Superseding Indictment, or in the alternative, for a Bill of Particulars because the allegations against defendant are insufficient; (4) compel the government to disclose exculpatory and impeachment evidence; (5) compel the disclosure of information concerning cooperating witnesses; (6) compel information concerning law enforcement officers involved in the investigation; (7) compel information about the recording process and any lost or destroyed evidence; (8) compel the grand jury testimony supporting the government's Superseding Indictment; (9) compel information regarding telephone conversations among the coconspirators; (10) compel 404(b) evidence; (11) compel expert reports and summaries of expert testimony; (12) compel production of all Jencks Act material; (13) to require the government to preserve agents' rough notes; (14) compel a hearing regarding the admissibility of statements made by any alleged coconspirators and the defendant; (15) to compel a hearing regarding the admissibility and use of prior convictions under Fed. R. Evid. 609; and (16) obtain leave to file additional motions as the need arises before trial; and on motion of the United States of America by Ralph

J. Marra, Jr., Acting United States Attorney for the District of New Jersey (Grace H. Park and Anthony J. Mahajan, Assistant U.S. Attorneys, appearing) for an order granting the government's pretrial motions requesting reciprocal discovery and admission of Rule 404(b) evidence in the above matter; the Court having considered the parties' submissions, and having held an evidentiary hearing on March 18, 2009; and for good cause shown,

WHEREFORE, on this 24 day of March, 2009

IT IS ORDERED that defendant's motion seeking dismissal of the Superseding Indictment for "outrageous government conduct" is RESERVED for decision;

IT IS FURTHER ORDERED that, the government having withdrawn its opposition thereto, defendant's motion to suppress evidence seized from defendant's person and residence at the time of his arrest is GRANTED;

IT IS FURTHER ORDERED that defendant's motion to dismiss the Superseding Indictment for insufficiency or, in the alternative, for a Bill of Particulars, is DENIED;

IT IS FURTHER ORDERED that defendant's motion to compel disclosure of Brady and Giglio material is GRANTED, and the government shall produce such material, to the extent it has not already done so, by March 20, 2009;

IT IS FURTHER ORDERED that defendant's motion to compel information about the recording process and any lost or destroyed evidence is MOOT;

IT IS FURTHER ORDERED that defendant's motion to compel disclosure of grand jury material is DENIED;

IT IS FURTHER ORDERED that defendant's motion to compel information regarding telephone conversations among the coconspirators is MOOT;

IT IS FURTHER ORDERED that defendant's motion to compel notice of Rule 404(b) evidence is MOOT;

IT IS FURTHER ORDERED that defendant's motion to compel expert reports and summaries is MOOT;

IT IS FURTHER ORDERED that defendant's motion to compel early disclosure of Jencks Act material is MOOT, as the government has agreed to produce such material by March 20, 2009;

IT IS FURTHER ORDERED that defendant's motion to require the government to retain, preserve and produce agents' rough notes is MOOT, as the government has agreed to produce such notes, to the extent required under the Jencks Act, by March 20, 2009;

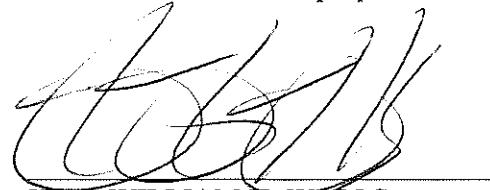
IT IS FURTHER ORDERED that defendant's motion to compel a pre-trial hearing regarding the admissibility of coconspirator statements is DENIED, and defendant's right to seek such a hearing during trial is RESERVED;

IT IS FURTHER ORDERED that defendant's motion to compel a pre-trial hearing regarding the admissibility and use of defendant's prior convictions is DENIED, and defendant's right to seek such a hearing during trial is RESERVED;

IT IS FURTHER ORDERED that defendant's motion for leave to file any necessary additional motions is GRANTED;

IT IS FURTHER ORDERED that government's motion requesting that the defendant provide reciprocal discovery is GRANTED;

IT IS FURTHER ORDERED that the government's motion for admission of Rule 404(b) evidence is GRANTED pending the Court's review of witnesses' proposed testimony for unfair prejudice.



HON. WILLIAM H. WALLS
United States District Judge